

or a designee who provides the certifications described in §430.404(a)(6)(i), (ii) and (iii) of this chapter for all senior professionals in the agency may consider whether, and to what extent, an additional pay increase may be warranted for a senior professional based on the same criteria used in determining his or her annual pay increase. However, if the increase in maximum rate of basic pay is due to a change in the certification status of an applicable performance appraisal system, the requirements of paragraphs (a), (b), and (c) of this section apply.

(e) An off-cycle pay increase granted under this section will be effective prospectively, not retroactively.

§534.511 Exemption from performance appraisal requirements.

(a) An agency responsible for setting and adjusting rates of basic pay for SL or ST employees or positions excluded from performance appraisal by or under statute is, with respect to those employees or positions, exempt from any provision of this subpart to the extent that it makes a pay determination contingent upon performance appraisal, including—

(1) Section 534.505(a)(1), (2) and (3) to the extent these paragraphs require that an agency's plan for setting and increasing rates of basic pay reflect meaningful distinctions among SL and ST employees based upon individual performance and include criteria that ensure individuals with the highest levels of individual performance, or the greatest contributions to agency performance, or both, receive the highest pay increases. The agency must still provide written procedures for setting and adjusting rates of pay for covered SL and ST employees that specify criteria that will be applied consistent with applicable law. The remaining provisions of §534.505 apply, except for references in §534.505(a)(5) to compliance with certification requirements and centralized review of ratings and pay actions;

(2) Section 534.507(b), (c), (d), (e), and (f). The agency must still document in writing the basis for each pay increase under §534.507 in accordance with criteria specified in the agency's written procedures under §534.505(a); and

(3) Section 534.510(b) and (c). The agency must still document in writing the basis for each off-cycle pay increase under §534.510 in accordance with criteria specified in the agency's written procedures under §534.505(a).

(b) Except as specified in paragraph (a) of this section, an agency responsible for setting and adjusting rates of basic pay for SL or ST employees excluded from performance appraisal by or under statute is subject to the requirements of this subpart with respect to those employees.

(c) The maximum rate of basic pay for an SL or ST employee or position not subject to performance appraisal is the maximum rate described in §534.504(a)(2)(i). An agency head who uses the exemption in paragraph (a) of this section to set the rate of basic pay for SL or ST employees who are not subject to performance appraisal may not certify that those employees are covered by a performance appraisal system meeting the certification criteria established in part 430, subpart D of this chapter for purposes of authorizing rates of basic pay above the rate for level III of the Executive Schedule.

(d) Notwithstanding paragraph (c) of this section, an agency responsible for setting and adjusting rates of basic pay for SL or ST employees or positions excluded from performance appraisal by or under statute is subject to §534.509(a) when setting a rate of basic pay for an SL or ST employee upon transfer to such a position. The agency may also apply §534.509(c) upon movement of an SL or ST employee whose rate of basic pay was initially set under §534.509(a) or (c) to another SL or ST position that is excluded from performance appraisal. Pay may be reduced upon the movement only as provided in §534.508. In either case, the employee will not be eligible for a pay increase until he or she is appointed to an SL or ST position that is subject to a certified performance appraisal system or until his or her rate of basic pay is less than the rate for level III of the Executive Schedule.